

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 148 of 1997

with

CRIMINAL REVISION APPLICATION NO. 149 OF 1997

with

CRIMINAL REVISION APPLICATION NO. 200 OF 1997

with

CRIMINAL MISC. APPLICATION NO. 4758 OF 1997

with

CRIMINAL MISC. APPLICATION NO. 4797 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allow to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair co of the judgement?
  4. Whether this case involves a substantial questi of law as to the interpretation of the Constituti of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judg
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ALPA VINAY ANTANI

Versus

STATE OF GUJARAT

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Appearance:

CRI.REV.APPLN. NOS.148/97 & 149/97

MR BM GUPTA for Petitioner in both matters

MR UMESH TRIVEDI, APP for Respondent No. 1 in both matters

MR TS NANAVATI for Respondents Nos. 2, 3, and 4 in both matters

CRI.REV.APPLN. NO.200/97

MR UMESH TRIVEDI, APP for the petitioner

MR TS NANAVATI for the respondents nos.1,2 and 3.

CRI.MISC.APPLN. NO.4758/97

MR BM GUPTA for the petitioner

MR TS NANAVATI for respondent no.1

MR SA PANDYA, APP for respondent no.2

CRI.MISC.APPLN. NO.4797/97

MR TS NANAVATI for the petitioners

MR SA PANDYA, APP for respondent no.1

MR BM GUPTA for respondent no.2

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 02/09/97

COMMON ORAL JUDGEMENT

Two Criminal Cases led to the filing of these five different petitions before this Court. Out of Criminal Case No.964 of 1994 of the Metropolitan Magistrate Court No.11, Ahmedabad, arise the Revision Application No.148 of 1997. Criminal Misc. Application No. 4797 of 1997 is filed by the original accused of that very case.

Second Criminal Case No. 1351 of 1996 of the same Court led to filing of Revision Applications Nos. 149 of 1997 as well as 200 of 1997 by the State, in view of the discharge order.

I am not setting out the details of the matter because, the parties have settled the matter inter se. The matter is essentially a matrimonial dispute. The settlement is taken on record for the first in point of time, in Revision Application No.148 of 1997 setting out the history in detail and the consent terms also equally.

The settlement is arrived at in respect of the dispute as to maintenance of minor son Valai and the share in property.

The settlement provides for future maintenance as well and for that purpose, a cheque for Rs.2 Lakhs has been handed over to the said Alpaben and ld.Advocate Shri Nanavati appearing for the original accused has instructions to see that the accused have verified from their Bank of the cheque having been cleared. In view of the settlement, none of the matters would survive. However, certain formalities are required to be carried out.

Accordingly, the aforesaid two Criminal Revision Applications Nos.148 of 1997 and 149 of 1997 are sought

to be withdrawn in view of the settlement. They are allowed to be withdrawn and they shall stand disposed of as such. Notices issued in each of them are discharged.

Criminal Misc. Application No. 4758 of 1997 in respect of the muddamal article - Motor Cycle is allowed in favour of the petitioner and the said vehicle, namely, Kawasaki Bajaj bearing Regn. No. GCM-5153 is to be handed over to the petitioner Alpaben and it being with Mahila Police Station, the Police authorities shall hand over the same to said Alpaben on proper identification.

This leads to the other two matters, namely, Criminal Revision Applications Nos.149 of 1997 and 200 of 1997 filed by the State as well as Criminal Misc. Application No. 4797 of 1997. In view of the compromise arrived at between the parties, the original of which has been placed in Criminal Revision Application No.148 of 1997m a copy thereof is taken on record of this petition. The complaint pending before the Metropolitan Magistrate Court, by way of Criminal Case No.964 of 1994 and on production of chargesheet and the cognizance taken thereunder will have to be dealt with in accordance with the settlement. Accordingly Rule is issued. Ld.Advocate Shri Gupta waives the Rule for original complainant and ld.APP Shri S.A.Pandya waives the same for the State.

As the dispute related to the estate of the deceased husband of the original complainant as well as to the deceased, it having been settled in terms of the compromise having been arrived at, there is no question of the trial Court going into the merits of the case and on inquiry to find out any offence committed or not. Accordingly, the complaint is quashed. The process taken thereunder is set aside. Rule is made absolute accordingly.

The compromise is entered into by Alpaben on behalf of the minor son Valai, who is at present aged about 9 years. She has accepted the sum of Rs.2 Lakhs in lumpsum by way of settlement for his maintenance, both past and future.

As per the terms set out in the compromise as well as the circumstances narrated, it seems to be in the best interest of the minor son and, therefore, the decision taken by said Alpaben on behalf of her minor son is accepted and is found to be in the interest of the said minor.

The said sum of Rs.2 Lakhs received by her by way

of cheque is understood to have dealt with in the properly. It should be invested in the name of minor son Valai on the long term basis in a scheme most suitable to the depositor in a Nationalised Bank. As the minor son is aged about 9 years, the said investment should be for a period of 12 (twelve) years.

In case it is not possible for the Nationalised Bank to receive the said investment for the period of 12 years, it shall be invested for the maximum period under the Banking and Conditions to which interest corpus, till the minor attains the age of 21 (twentyone) years and the account shall be in the name of minor son Valai and Alpaben Vinay Antani to be his guardian and she will be entitled to interest on the investment which is to be used for the up-keep of her minor son Valai and for his betterment.

After the minor Valai attaining majority, the Bank shall pay the corpus to said son Valai. During the pendency of the investment, there shall be restrictions on the Bank as well as guardian Alpaben either to raise any loan or to encash the investment prematurely and for either of these two purposes, if at all circumstances so warrant, she shall not do so without the prior permission of the trial Court, namely, Metropolitan Magistrate Court, Ahmedabad.

Accordingly, all the matters are disposed of.

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